

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0436

**Adjusted Gross Income Tax
Calendar Years 1992, 1993, 1994, and 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.10-2.1; 45 IAC 15-5-1

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated under the laws of Illinois on March 4, 1985 has one business location in Indiana. An audit was completed on May 13, 1997, which resulted in the denial of the Enterprise Zone Employee Credit.

During the audit period, taxpayer claimed a credit each year for the Enterprise Zone Employment expense credit. Examination of taxpayer's records revealed the employee's addresses that were included in the claimed credit. The east Chicago Enterprise Zone was contacted and it was determined that none of these employees live in the East Chicago Enterprise Zone, and therefore, taxpayer is not qualified to take this credit.

IC 6-3-3-10 provides a tax liability credit to certain enterprise zone employers for qualified employees. A qualified employee is an individual who has his principal place of residence in the enterprise zone in which he is employed, performs services of which ninety percent (90%) are directly related to the conduct of the taxpayer's business located in an enterprise zone and performs at least fifty percent (50%) of his service for the taxpayer in the zone. Taxpayer's employees do not meet these

requirements; therefore the credit was disallowed for all four years of the audit.

The Hearing Officer was provided with a copy of the Urban Enterprise Zone Street Directory and after review, found that most of the addresses the taxpayer believed to fall under the Enterprise Zone were actually only across the street for those who did fall under the credit.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer states its employees live both in and out of the Enterprise Zone; i.e. across from the street of each other and all had East Chicago addresses. It believed that the persons for whom it took credit qualified.

The hearing officer reviewed a copy of the East Chicago Urban Enterprise Zone Street Directory and found that an error could easily be made.

Taxpayer further states that corrections have been made on its books and amended returns would be filed, if not already beginning with calendar year 1996.

FINDING

Taxpayer's protest is sustained.